

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
NORTHERN DIVISION**

**SHUNDA WILKINS, DIANN
GRAHAM, and DAVID WATSON on
behalf of themselves and all others
similarly situated,**

Plaintiffs,

vs.

SIMMONS BANK,

Defendant.

Case No. 3:20-cv-00116-DPM

JURY TRIAL DEMANDED

**RESPONSE TO DEFENDANT’S MOTION TO DISMISS
AND SUGGESTION OF MOOTNESS**

Plaintiffs hereby file this response to Defendant’s motion to dismiss (Dkt. No. 9).

1. In response to Defendant’s motion, Plaintiffs timely filed an amended complaint pursuant to Federal Rule of Civil Procedure 15(a)(1)(B).

2. This Court has consistently recognized that “[a]n original complaint is superseded by the filing of an amended complaint and will no longer have any legal effect.” *See Avery v. Brown*, 2012 WL 12893867, at *3 (E.D. Ark. Mar. 21, 2012); Fed. R. Civ. P. 15. Because the original complaint no longer has any legal effect, motions to dismiss aimed at the original complaint are routinely denied as moot. *See Avery*, 2012 WL 12893867, at *3; *First Community Bank v. Wootton New Holland, LLC*, 2017 WL 11285590, at *1 (E.D. Ark. Mar. 30, 2017) (“In the light of the filing of the amended complaint, the Court denies the first motion to dismiss as moot”) (citing *Pure Country, Inc. v. Sigma Chi Fraternity*, 312 F.3d 952, 956 (8th Cir. 2002)). *See also Old Republic Nat’l Title Ins. Co. v. Greene County Abstract & Title Co.*, 2009 WL

2913511, at *1 (E.D. Ark. Sept. 8, 2009) (same); *Valor Healthcare, Inc. v. Pinkerton*, 2008 WL 4079284, at *1 (W.D. Ark. Aug. 28, 2008) (same).

3. Therefore, Plaintiffs respectfully request that the Court enter an order finding Defendant's motion to dismiss the original complaint moot.

Dated: June 29, 2020.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of June, 2020, I electronically filed the foregoing document with the clerk for the United States District Court for the Eastern District of Arkansas using the electronic case filing system of the Court. The electronic case filing system sent a “Notice of Electronic Filing” to attorneys of record, who have consented in writing to accept this Notice as service of this document by electronic means.

/s/ E. Adam Webb

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